

REMARKS

At the outset, the Examiner is thanked for the thorough review and consideration of the subject application.

In the Non-Final Office Action dated March 19, 2003, the Examiner rejected claims 1-2, 4, 8-11, 13-15, 21-24 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Sullivan et al. (U.S. Pat. No. 6,477,531) in view of Gerland et al. ("Taking A Spade To The Web") and National Gardening ("National Gardening Association Home Page", extracted from the Internet on 1/16/02); rejected claims 3 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Sullivan et al. in view of Gerland et al. and National Gardening; rejected claims 5-7, 18-20, and 28-30 under 35 U.S.C. § 103(a) as being unpatentable over Sullivan et al. in view of Gerland et al. and National Gardening and further in view of Sturgeon et al. (U.S. Pat. No. 5,726,884); rejected claims 12 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Sullivan et al. in view of Gerland et al. and National Gardening; and rejected claim 27 under 35 U.S.C. § 103(a) as being unpatentable over Sullivan et al. in view of Gerland et al., National Gardening, and an "Official Notice". Applicants respectfully traverse the rejections and reconsideration is hereby requested.

The rejection of claims 1-2, 4, 8-11, 13-15, 21-24 and 26 under 35 U.S.C. § 103(a) as being unpatentable over Sullivan et al. in view of Gerland et al. and National Gardening is traversed and reconsideration is respectfully requested.

Claim 1 is allowable over the cited references in that claim 1 recites a combination of elements including, for example, "querying a user for at least one geographic region; receiving the at least one geographic region from the user; querying the user for the location of a gardening problem within said geographic region; receiving the at least one gardening problem from the

user; querying database and generating a series of questions in response to the received at least one gardening problem; receiving a response to the series of questions from the user; querying the database and identifying at least one gardening material based upon a response to at least one of the querying.” None of the cited references, singularly or in combination, teaches or suggests at least this feature of the claimed invention. Accordingly, Applicants respectfully submit that claim 1 and claims 2-12, which depend from claim 1, are allowable over the cited references.

Claim 13 is allowable over the cited reference in that claim 13 recites a combination of element including, for example, “presenting a user with at least one inquiry...; identifying at least one gardening material based upon a response to said inquiry; wherein at least one inquiry is directed toward the user’s state and the at least one gardening material is identified based at least partially upon the user’s state.” None of the cited references singularly or in combination, teaches or suggests at least this feature of the claimed invention. Accordingly, Applicants respectfully submit that claim 13 and claims 14-25, which depend from claim 13, are allowable over the cited references.

Claim 26 is allowable over the cited references in that claim 26 recites a combination of elements including, for example, “querying a user for a geographic region in which the garden material is to be utilized; receiving the geographic region from the user; querying the user for an object affected by the gardening problem...; receiving the object affected by the gardening problem from the user; querying the user for a type of gardening problem; receiving the type of gardening problem from the user; determining whether the type of gardening problem is a pest problem, a fertilizer need problem, or information pertaining to seeds; and generating a list of products based partially upon the geographic region.” None of the cited references, singularly or in combination, teaches or suggests at least this feature of the claimed invention. Accordingly,

Applicants respectfully submit that claim 26 and claims 27-30, which depend from claim 26, are allowable over the cited references.

To establish a *prima facie* case of obviousness, there must be at least some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Further, the cited reference must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Accordingly, and for the reasons set forth below, Applicants respectfully submit a *prima facie* case of obviousness has not been established over the claimed invention.

For example, the Examiner cites Sullivan et al. at Figures 1-12 and at column 2, line 44-column 3, line 60, column 4, line 55-column 8, line 47, and column 11, lines 22-58 as teaching “presenting the user with at least one query directed towards the symptoms of a problem observed by the user and identifying a solution based at least partially upon the user’s responses to the inquiry...” but as failing to teach “that the problems/information required are related to gardening material.”

Applicants agree with the Examiner’s interpretation of Sullivan et al. to the extent that Sullivan et al. does not present a user with at least one query directed to problems related to gardening material. Applicants respectfully submit, however, that the Examiner has generalized the deficiencies of Sullivan et al., to the point that the combination of claimed elements have not been fully addressed.

For example, Applicants respectfully submit claim 1 recites a combination of elements including, for example, “querying a user for at least one geographic region; receiving the at least one geographic region from the user; querying the user for the location of a gardening problem within said geographic region; receiving the at least one gardening

problem from the user; querying database and generating a series of questions in response to the received at least one gardening problem; receiving a response to the series of questions from the user; querying the database and identifying at least one gardening material based upon a response to at least one of the querying.”

Moreover, Applicants respectfully submit claim 13 recites a combination of elements including, for example, “presenting a user with at least one inquiry...; identifying at least one gardening material based upon a response to said inquiry; wherein at least one inquiry is directed toward the user’s state and the at least one gardening material is identified based at least partially upon the user’s state.”

Further, Applicants respectfully submit claim 26 recites a combination of elements including, for example, “querying a user for a geographic region in which the garden material is to be utilized; receiving the geographic region from the user; querying the user for an object affected by the gardening problem...; receiving the object affected by the gardening problem from the user; querying the user for a type of gardening problem; receiving the type of gardening problem from the user; determining whether the type of gardening problem is a pest problem, a fertilizer need problem, or information pertaining to seeds; and generating a list of products based partially upon the geographic region.”

Therefore, Applicants respectfully submit that while the aforementioned combination of elements may be directed to, for example, “gardening material”, it cannot be said that “problems related to gardening material” are necessarily (inherently) related to the aforementioned combination of elements. Accordingly, Applicants respectfully submit Sullivan et al. fails to teach or suggest at least the aforementioned combination of elements.

In attempting to cure the deficiencies of Sullivan et al., the Examiner relies upon Gerland et al. as teaching "...that gardening websites exist which carry out business related to resolving gardening problems like dealing with pests, ..." and concludes it would have been obvious to modify Sullivan et al. "...to include the features of gardening sites such as resolving gardening problems... [because] doing so would enable customers to use Sullivan's method and system to resolve gardening problems..."

For similar reasons as stated above with respect to Sullivan et al., Applicants respectfully submit that while Gerland et al. may teach of the existence of gardening websites that "carry out business related to resolving gardening problems...", and absent any evidence to the contrary, Gerland et al. cannot be reasonably interpreted as teaching or suggesting any of the aforementioned combination of the elements.

The Examiner then stated "Sullivan/Gerland does not disclose that the processor queries the user about a geographic region and the user furnishes the same information to the processor" and relied upon National Gardening as teaching "that the user informs the processor a geographic location when queried by the process for the same (see page 1, "Selecting a region") and processor provides gardening information as relevant to that geographic location." The Examiner concluded that it would have been obvious to modify "Sullivan/Gerland to include the feature of user informing a geographical region upon being prompted by the processor... [because] doing so helps the processor respond with relevant [to that] region only."

Applicants respectfully submit, however, that the Examiner's motivation to modify the invention of Sullivan et al. in view Gerland et al. with teachings of National Gardening (apparently related to a processor that queries the user about a geographic region wherein a user furnishes the geographic region to the processor) because "doing so helps the processor to

respond with relevant information related [to that] region only” is not sufficient to establish a *prima facie* case of obviousness over the claimed invention.

Assuming *arguendo*, that National Gardening may be used to modify the invention of Sullivan et al. in view Gerland et al., Applicants respectfully submit the mere fact that references may be combined or modified does not render the resultant combination obvious unless the reference also suggests the desirability of the combination. Accordingly, there must be some objective reason to the combine the teachings of the references. See M.P.E.P. § 2143.03. In the present case, the apparent motivation to modify the invention of Sullivan et al. in view Gerland et al. with National Gardening lied in the fact that the processor (presumably of Sullivan et al.) would be enabled to “respond with relevant information related [to that geographical] region only.” Applicants respectfully submit however, the Examiner has not suggested any objective desirability for the proposed modification because both Sullivan et al. and Gerland et al. are completely silent (both implicitly and explicitly) as to the desirability of geographically-based information. Further, National Gardening does not teach or suggest the desirability of enabling processors such as those provided by Sullivan et al. to return geographically-based information. Applicants respectfully submit that such modification is suggested only by the claimed invention and to do so would necessitate considerable impermissible hindsight.

Lastly, the Examiner states Sullivan et al. in view Gerland et al. and National Gardening teaches “identifying at least one gardening material based upon the inquiry... (see at least Gerland and National Gardening).”

Applicants respectfully submit however, both Gerland et al. and National Gardening are completely silent as to any teaching that at least one gardening material is identified based upon

the inquiry. Applicants invite the Examiner to clarify exactly where within Gerland et al. or National Gardening this claimed element is reasonably taught or suggested.

The rejection of claims 3 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Sullivan et al. in view of Gerland et al. and National Gardening is traversed and reconsideration is respectfully requested.

Claims 3 and 16 include all of the limitations of claims 1 and 13, respectively, as discussed above. Accordingly, Applicants respectfully submit claims 3 and 16 are allowable by virtue of their dependence from claims 1 and 13.

The rejection of claims 5-7, 18-20, and 28-30 under 35 U.S.C. § 103(a) as being unpatentable over Sullivan et al. in view of Gerland et al. and National Gardening and further in view of Sturgeon et al. is traversed and reconsideration is respectfully requested.

Claims 5-7 include all of the limitations of claim 1, as discussed above, and Sullivan et al. in view of Gerland et al. and National Gardening fails to teach or suggest at least these features of independent claim 1 as recited above. Similarly, Sturgeon et al. fails to cure the deficiencies of Sullivan et al. in view of Gerland et al. and National Gardening. Accordingly, Applicants respectfully submits that the Examiner has not established a *prima facie* case of obviousness regarding claims 5-7 in view of claim 1, as above.

Claims 18-20 include all of the limitations of claim 13, as discussed above, and Sullivan et al. in view of Gerland et al. and National Gardening fails to teach or suggest at least these features of independent claim 13 as recited above. Similarly, Sturgeon et al. fails to cure the deficiencies of Sullivan et al. in view of Gerland et al. and National Gardening. Accordingly, Applicants respectfully submits that the Examiner has not established a *prima facie* case of obviousness regarding claims 18-20 in view of claim 13, as above.

Claims 28-30 include all of the limitations of claim 26, as discussed above, and Sullivan et al. in view of Gerland et al. and National Gardening fails to teach or suggest at least these features of independent claim 26 as recited above. Similarly, Sturgeon et al. fails to cure the deficiencies of Sullivan et al. in view of Gerland et al. and National Gardening. Accordingly, Applicants respectfully submits that the Examiner has not established a *prima facie* case of obviousness regarding claims 28-30 in view of claim 26, as above.

The rejection of claims 12 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Sullivan et al. in view of Gerland et al. and National Gardening is traversed and reconsideration is respectfully requested.

Claims 12 and 25 include all of the limitations of claims 1 and 13, respectively, as discussed above. Accordingly, Applicants respectfully submit claims 12 and 25 are allowable by virtue of their dependence from claims 1 and 13.

The rejection of claim 27 under 35 U.S.C. § 103(a) as being unpatentable over Sullivan et al. in view of Gerland et al., National Gardening, and an "Official Notice" is traversed and reconsideration is respectfully requested.

Claim 27 includes all of the limitations of claim 26 as discussed above. Accordingly, Applicants respectfully submit claim 27 is allowable by virtue of their dependence from claim 26.

If the Examiner deems that a telephone call would further the prosecution of this application, the Examiner is invited to call the undersigned at (202) 496-7500. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. § 1.136, and any additional fees required under

Application No.: 09/373,576
Group Art Unit: 3625
Reply to Office Action of March 19, 2003

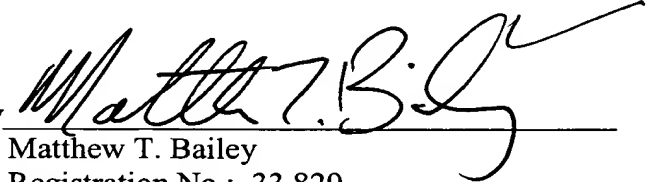
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37 C.F.R. § 1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911.

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